

Federal Defenders
OF NEW YORK, INC.

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

April 22, 2016

BY EMAIL and HAND DELIVERY

The Honorable Ronald L. Ellis
United States Magistrate Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: United States v. Randy Heard
16 cr. 24 (RLE)

Dear Judge Ellis:

I write on behalf of Mr. Randy Heard, a man living with a great many troubles who has candidly admitted his wrongdoing for spitting at an on-duty employee of the Social Security Administration (SSA), violating 18 U.S.C. § 111(a) 1 and 2. The incident was prompted by Mr. Heard's belief that the SSA employee had conspired to prevent Mr. Heard from collecting millions of dollars in benefits he thinks are available on a special "black card." Mr. Heard's impulsive conduct has lead to vastly disproportionate consequences in his life. Mr. Heard appeared before Your Honor on March 28, 2016 and candidly admitted his culpability for spitting at the SSA employee, apologized, and also explained the circumstances of the incident. Mr. Heard is scheduled to be sentenced by Your Honor on May 2, 2016 at 11:00 a.m. For the reasons set out below, I ask Your Honor to impose a \$25 special assessment fee and no further incarceration or supervision.

Under the unique circumstances here, further punishment of Mr. Heard would be wholly counterproductive to the interests of justice. The federal interest in this case is in Mr. Heard's rehabilitation, which will only be hampered by further incarceration or supervision. Without minimizing the alarming nature of Mr. Heard's conduct, Mr. Heard's behavior was a direct product [REDACTED] and was not intended to cause physical harm. Mr. Heard's [REDACTED] issues made pre-trial supervision ineffectual, if not impossible. Mr. Heard, who has already been held – largely in solitary confinement – at the

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United States Magistrate Judge
Southern District of New York

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Metropolitan Detention Center (MDC) for nearly three months,¹ has been severely punished for this incident. As will be discussed below, [REDACTED]

[REDACTED] The only reasonable alternative here lies in allowing Mr. Heard to resume his independent progress toward gaining access to the Social Security benefits [REDACTED]

[REDACTED]. With all of these goals, the social work division of the Federal Defenders is dedicated to assisting Mr. Heard going forward.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹ Mr. Heard was arrested on June 12, 2015, and the Honorable Magistrate James L. Cott imposed release conditions which included a cosigner to a personal recognizance bond. Unable to obtain a cosigner, Mr. Heard was detained from June 12, until released on, *inter alia*, GPS monitoring by the Honorable Frank Maas on September 11, 2015. See Bond Modification, Attached at Exhibit C.

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United States Magistrate Judge
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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United States Magistrate Judge
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[REDACTED]

[REDACTED]

Further Incarceration and Supervision is Unnecessary

Mr. Heard's history of contact with the criminal justice system demonstrates the futility of further incarceration and supervision. [REDACTED]

[REDACTED] Without minimizing the fear and discomfort experienced by the SSA employee, Mr. Heard spitting at the employee from the other side of the subway turnstile has been substantially punished. Mr. Heard has already been incarcerated under harsh conditions for this offense, including several months in solitary confinement, and further action by the federal government is wholly unnecessary.

[REDACTED]

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United States Magistrate Judge
Southern District of New York

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[REDACTED]

[REDACTED]

[REDACTED]

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United States Magistrate Judge
Southern District of New York

April 22, 2016
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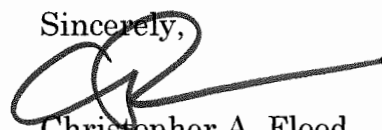
[REDACTED]

Conclusion

[REDACTED] e.

Mr. Heard has already served months in solitary confinement at the MDC, which is more than a sufficient punishment for his conduct in this offense, [REDACTED] The best chance for keeping Mr. Heard out of the criminal justice system and enabling him to live a better life is to allow him to voluntarily re-integrate with the able assistance of Ms. Veasley, and for the Court to impose a \$25 special assessment.

Sincerely,



Christopher A. Flood.
Assistant Federal Defender
Attorney for Randy Heard
(212) 417-8734

cc: AUSA Jonathan Rebold

EXHIBIT A

Federal Defenders
OF NEW YORK, INC.

Southern District
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Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge

April 21, 2016

Magistrate Ronald L. Ellis
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Randy Heard

Dear Judge Ellis:

My name is Rachelle D. Veasley. I am a licensed clinical social worker and the Director of Client & Mitigation Services with the Federal Defenders of New York. I oversee the social work department, which provides comprehensive support to clients as they address their legal matters.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

redirected to the inmate entrance by the officers on duty.

[REDACTED]

[REDACTED]

■ Social Security. (n.d.). Retrieved April 21, 2016, from <https://www.ssa.gov/planners/disability/dqualify10.html#>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Just as before, I will sit with Mr. Heard and follow up with any and all phone appointments necessary

My office is committed to supporting Randy Heard

Respectfully submitted,

[REDACTED] D. Veasley, LCSW
 Director of Client & Mitigation Services
 Federal Defenders of New York, Inc.
 52 Duane Street, 10th floor
 New York, NY 10007

EXHIBIT B

Bureau of Prisons

SENSITIVE BUT UNCLASSIFIED

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

EXHIBIT C

09/11/2015 15:13 12125710392

PAGE 01/01

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Federal Defenders OF NEW YORK, INC.

Southern District
52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

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Jennifer L. Brown
Attorney-in-Charge

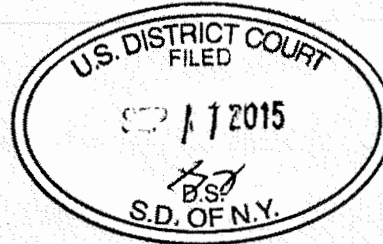
DOC # 15

September 11, 2015

VIA FAX

Honorable Frank Maas
United States Magistrate Judge
500 Pearl Street
New York, New York 10007

Re: United States v. Randy Heard
15 Mj. 2038 (UA)



Honorable Judge Maas,

I write to request that Mr. Heard's bond conditions, set by Magistrate Judge James Cott on June 13, 2015, be modified as follows: That Mr. Heard be released today on a \$20,000 personal recognizance bond; that he be subject to stand-alone GPS monitoring; that he be personally accompanied by a member of the Federal Defenders staff to the [REDACTED] (or in the alternative to accommodations arranged by the Federal Defenders); that he be [REDACTED]

Assistant United States Attorney Jennifer Gachiri consents to this application.

Thank you for your consideration of this matter.

Respectfully submitted,

/s/

Christopher A. Flood
Assistant Federal Defender
(212) 417-8734

SO ORDERED:

 9/11/15
HONORABLE FRANK MAAS
United States Magistrate Judge

cc: Assistant United States Attorney Jennifer Gachiri

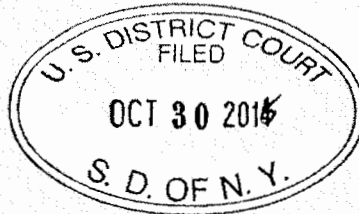
EXHIBIT D

**Federal Defenders
OF NEW YORK, INC.**

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Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
Executive Director

Southern District of New York
Jennifer L. Brown
Attorney-in-Charge



October 30, 2015

VIA FAX

The Honorable Judge James C. Francis
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

DOC # _____

Re: United States v. Randy Heard
15 Mag. 2038

Honorable Judge Francis:

I write to respectfully request that the Court modify Mr. Heard's bail conditions, set yesterday. Specifically, I request that the Court reconsider its decision to continue Mr. Heard on GPS monitoring. As the attached email from Pretrial Services Officer Dennis Khilkevich indicates, Mr. Heard is simply not a suitable candidate for GPS location monitoring (LM). See Exhibit A, email from Mr. Khilkevich.

Due to the limited means by which Mr. Heard lives his life and the limited access he has to electrical outlets and a place to sleep at night, it has become increasingly difficult for Mr. Heard to keep the bracelet charged. In the words of Mr. Khilkevich, "any effort to keep him on it would be counterproductive." Id.

The views of Mr. Khilkevich were not made known to Your Honor at yesterday's hearing, and the attached email was not received until after court was out of session for the evening. We therefore respectfully urge Your Honor to reconsider the decision to continue Mr. Heard on GPS monitoring.

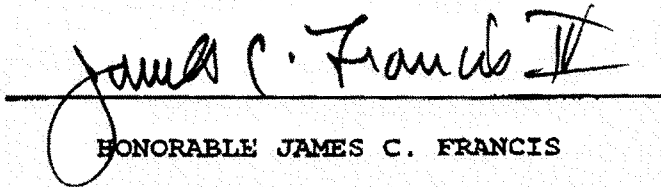
Thank you for your consideration of this matter.

Respectfully submitted,



Christopher Flood
Assistant Federal Defender
(212) 417-8734

SO ORDERED: *


HONORABLE JAMES C. FRANCIS

cc: AUSA Jennifer Lane Gachiri

* Upon the condition that
defendant report daily to
pretrial services by telephone.

Re: Randy Heard's wheelchair
Dennis Khilkevich

to:

Peggy Cross-Goldenberg
10/29/2015 04:54 PM

Cc:

Christopher A Flood, Rachelle Danielle Veasley, Joshua Rothman, Gianfranco Furelli, "Jennifer Gachiri"

Hide Details

From: Dennis Khilkevich/NYSPT/02/USCOURTS@USCOURTS Sort List...

To: Peggy Cross-Goldenberg/NYSG/02/FDO@fdo

Cc: Christopher A Flood/NYSG/02/FDO@fdo, Rachelle Danielle Veasley/NYSG/02/FDO@fdo, Joshua Rothman/NYSPT/02/USCOURTS@uscourts, Gianfranco Furelli/NYSPT/02/USCOURTS@uscourts, "Jennifer Gachiri" <Jennifer.Gachiri@usdoj.gov>

History: This message has been forwarded.

Peggy, unfortunately I'm not in the office today. Tomorrow I will be submitting a request to the Court to remove location monitoring/GPS. Heard is not a suitable candidate for LM, and any effort to keep him on it would be counterproductive.

He was arrested today, not yesterday.

Thanks.

Sent from my iPhone

On Oct 29, 2015, at 16:49, Peggy Cross-Goldenberg <Peggy_Cross-Goldenberg@fd.org> wrote:

Hi Dennis,

I just left you a voicemail. We are trying to make sure that Mr. Heard is released with the wheelchair he was in when he was detained yesterday.

I've reached out to the Marshals and they are looking into it but I wanted to touch base with you as well.

Chris Flood is Mr. Heard's attorney and he is over at Mag Court now.

Thanks,
Peggy

Peggy Cross-Goldenberg
Supervising Trial Attorney
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New York, NY 10007
Phone: 212-417-8732
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